IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.5923 OF 2005

Balu Amin Khairatkhan & Anr .. Petitioners.
Vs
Lala Yakub Khairatkhan & Ors .. Respondents

Mr R.G.Ketkar, for the petitioners.
Mr Prashant Patil, h/f Mr R.V..More, for respondent nos 2 and 3.
Mr Ajit Kangale, for respondent no.1.

CORAM : D.B.BHOSALE,J.
DATE : 29.08.2006
PC:

1. Heard the learned counsel for the parties.

2. Rule. Returnable forthwith. The learned counsel waive service for the respondents. By consent, rule is heard forthwith.

3. By this writ petition, the petitioners have impugned the concurrent findings recorded by the courts below in the proceedings arising from the application filed by the petitioners-defendants under Order 39, rule 1 and 2 of the Code of Civil Procedure. Mr. Patil, learned counsel for the petitioners, submits that the application filed by the petitioners-defendants was also maintainable seeking such relief. I do not intend to enter into that controversy in view of the fact that no interim order has ever been granted in favour of the

petitioners. Instead of keeping this petition pending any more, interest of justice would be met if the trial Court is directed to dispose of the regular civil suit which is pending since 1998 within timeframe. Hence, I pass the following order.

(i) The trial Court shall decide Regular Civil Suit no.428 of 1998 as expeditiously as possible and preferably within a period of six months from the date of receipt of this order on merits in accordance with law and uninfluenced by the observations made in the present proceedings arising from the application under order 39 rule 1 of C.P.C. The petitioners are directed to produce a copy of this order before the trial Court.
(ii) With these observations, rule is disposed of.

(D.B.BHOSALE,J.)